

1 **BEFORE THE FEDERAL ELECTION COMMISSION**

2  
3 In the Matter of )  
4 )  
5 MUR 7295 ) DISMISSAL AND  
6 Peru Federal Savings Bank ) CASE CLOSURE UNDER THE  
7 Jonathan Brandt ) ENFORCEMENT PRIORITY  
8 Brian Towne ) SYSTEM  
9 Citizens for Towne State’s Attorney )  
10 )  
11 )

12 **GENERAL COUNSEL’S REPORT**

13 Under the Enforcement Priority System, the Commission uses formal scoring criteria as a  
14 basis to allocate its resources and decide which matters to pursue. These criteria include, without  
15 limitation, an assessment of the following factors: (1) the gravity of the alleged violation, taking into  
16 account both the type of activity and the amount in violation; (2) the apparent impact the alleged  
17 violation may have had on the electoral process; (3) the complexity of the legal issues raised in the  
18 matter; and (4) recent trends in potential violations of the Federal Election Campaign Act of 1971, as  
19 amended (the “Act”), and developments of the law. It is the Commission’s policy that pursuing  
20 relatively low-rated matters on the Enforcement docket warrants the exercise of its prosecutorial  
21 discretion to dismiss cases under certain circumstances.

22 The Office of General Counsel has scored MUR 7295 as a low-rated matter and has  
23 determined that it should not be referred to the Alternative Dispute Resolution Office.<sup>1</sup> For the  
24 reasons set forth below, we recommend that the Commission dismiss the allegations that Peru  
25 Federal Savings Bank (“PFSB”), Jonathan Brandt, Brian Towne, and Citizens for Towne State’s  
26 Attorney (“the Committee”)<sup>2</sup> violated the Act or Commission regulations.

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<sup>1</sup> The EPS rating information is as follows: . Complaint Filed: November 1, 2017. Responses Filed: November 16, 2017.

<sup>2</sup> Towne was first elected as State Attorney in LaSalle County, IL, in 2006, and he lost his re-election bid in 2016. Citizens for Towne State’s Attorney is registered with Illinois State Board of Elections as Towne’s campaign committee. He is currently a special prosecutor at the Illinois Office of the State’s Attorney Appellate Prosecutor.

1           The Complaint alleges that PFSB, a federally chartered savings association in Peru, Illinois,  
2 violated the Act by contributing to the Committee between 2007 and 2016.<sup>3</sup> Complaint Attachments  
3 indicate the Committee disclosed contributions from PFSB in campaign finance reports filed with  
4 the Illinois State Board of Elections.<sup>4</sup> The Complaint also alleges that Jonathan Brandt, the Bank's  
5 Vice Chairman, directed the Bank to make the contributions.<sup>5</sup>

6           PFSB's response admits that it paid \$2,550 to the Committee from 2007 through 2016, but  
7 claims the payments were for entry fees and advertising as a sponsor for the Committee's golf  
8 outings, and denies that these payments constitute campaign contributions.<sup>6</sup> Brandt responds that he  
9 never directed or requested that PFSB contribute to Towne's campaign, and that he does not have  
10 the power or authority to do so.<sup>7</sup>

11           The Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission  
12 regulations prohibit any national bank or a corporation organized by authority of any law of Congress  
13 from making a contribution or expenditure in connection with any election to any political office,  
14 including local, State and Federal offices.<sup>8</sup> A contribution includes any "direct or indirect payment,  
15 distribution, loan, advance, deposit, or gift of money, or any services, or anything of value" to any

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<sup>3</sup> Compl. at 1. PFSB is a Federal Savings Association chartered and regulated by the Office of the Comptroller of the Currency, and insured by the Federal Deposit Insurance Corporation (FDIC).

<sup>4</sup> Compl., Attach. at 1-2. Reports filed with the Illinois State Board of Elections, viewable on its website, show that the Committee reported multiple contributions from PFSB as "Individual Contributions." See <http://elections.il.gov/>

<sup>5</sup> Compl. at 1.

<sup>6</sup> PFSB Response at 1. The PFSB Response attached copies of cancelled checks from PFSB, payable to Citizens for Brian Towne, dating from 2013 to 2016.

<sup>7</sup> *Id.* Brandt also states that he and his law firm contributed a total of \$7,119.94 to Towne's campaign over a ten-year period, in the form of attendance fees for campaign fundraiser golf outings, advertising costs at golf outings, and two fundraiser cookouts held at Brandt's home. Brandt Resp. at 1-2.

<sup>8</sup> 52 U.S.C. § 30118(a); 11 C.F.R. § 114.2. These provisions also prohibit directors or officers of national banks from consenting to such contributions. *Id.*

1 candidate or campaign committee in connection to any election to any political office.<sup>9</sup> The entire  
2 amount paid to attend a fundraiser or other political event and the entire amount paid as the purchase  
3 price for a fundraising item sold by a political committee is a contribution.<sup>10</sup> In this matter, the  
4 available record, including the Committee's Illinois campaign finance reports, suggest that PFSB's  
5 \$2,550 disbursements to the Committee for golf tournament entry fees and advertising constituted  
6 contributions, not merely payments.<sup>11</sup>

7           However, because of the low dollar amount at issue, we recommend that the Commission  
8 dismiss the allegations consistent with the Commission's prosecutorial discretion to determine the  
9 proper ordering of its priorities and use of agency resources. *Heckler v. Chaney*, 470 U.S. 821, 831-  
10 32 (1985). We also recommend that the Commission approve the attached Factual and Legal  
11 Analysis, close the file as to all respondents and send the appropriate letters.

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<sup>9</sup> 52 U.S.C. § 30118(b)(2) (does not include a loan of money by a bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business).

<sup>10</sup> 11 C.F.R. § 100.53.

<sup>11</sup> In reports filed with the Illinois State Board of Elections, the Committee reported \$1,900 of contributions from PFSB that were made inside the Statute of Limitations. *See* 28 U.S.C. § 2462. However, documents attached to the PFSB response indicate that PFSB contributed an additional \$150 during that time that was not reported by the Committee, for a total of \$2,050.



**FEDERAL ELECTION COMMISSION  
FACTUAL AND LEGAL ANALYSIS**

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3           RESPONDENTS: Peru Federal Savings Bank                   MUR 7295  
4                   Jonathan Brandt  
5                   Brian Towne  
6                   Citizens for Towne State's Attorney  
7  
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9   **I.     INTRODUCTION**

10           This matter was generated by a complaint alleging violations of the Federal Election  
11   Campaign Act of 1971, as amended ("the Act") and Commission regulations by Peru Federal  
12   Savings Bank ("PFSB"), Jonathan Brandt, Brian Towne, and Citizens for Towne State's  
13   Attorney ("the Committee").<sup>1</sup> It was scored as a low-rated matter under the Enforcement  
14   Priority System, by which the Commission uses formal scoring criteria as a basis to allocate its  
15   resources and decide which matters to pursue.  
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17   **II.    FACTUAL AND LEGAL ANALYSIS**

18       **A.     Factual Background**

19           The Complaint alleges that PFSB, a federally chartered savings association in Peru,  
20   Illinois, violated the Act by contributing to the Committee between 2007 and 2016.<sup>2</sup> Complaint  
21   Attachments indicate the Committee disclosed contributions from PFSB in campaign finance  
22   reports filed with the Illinois State Board of Elections.<sup>3</sup> The Complaint also alleges that

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1 Jonathan Brandt, the Bank's Vice Chairman, directed the Bank to make the contributions.<sup>4</sup>

2 PFSB's response admits that it paid \$2,550 to the Committee from 2007 through 2016,  
3 but claims the payments were for entry fees and advertising as a sponsor for the Committee's  
4 golf outings, and denies that these payments constitute campaign contributions.<sup>5</sup> Brandt  
5 responds that he never directed or requested that PFSB contribute to Towne's campaign, and  
6 that he does not have the power or authority to do so.<sup>6</sup>

7 **B. Legal Analysis**

8 The Federal Election Campaign Act of 1971, as amended ("the Act"), and Commission  
9 regulations prohibit any national bank or a corporation organized by authority of any law of  
10 Congress from making a contribution or expenditure in connection with any election to any  
11 political office, including local, State and Federal offices.<sup>7</sup> A contribution includes any "direct  
12 or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services; or  
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14 political office.<sup>8</sup> The entire amount paid to attend a fundraiser or other political event and the  
15 entire amount paid as the purchase price for a fundraising item sold by a political committee is a  
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2 entry fees and advertising constituted contributions, not merely payments.<sup>10</sup>

3 Accordingly, because of the low dollar amount at issue, the Commission dismisses the  
4 allegations consistent with the Commission's prosecutorial discretion to determine the proper  
5 ordering of its priorities and use of agency resources. *Heckler v. Chaney*, 470 U.S. 821, 831-32  
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